

City of Burien, Washington

Shoreline Advisory Committee Meeting #6 Summary

***September 23, 2009
4:00pm***

(1) ATTENDANCE

SAC Members present	Technical Staff Present	Interested Parties Present
Brian Bennett Bruce Berglund Cyrilla Cook Victoria Hall Patrick Haugen Rebecca McInteer Lee Moyer Kim Otto George Yocum Don Warren	David Johanson Bob Fritzen Liz Ockwell Steve Roemer Karen Stewart	Chestine Edgar Robert Edgar Dick Franks Judy Franks Robert Howell Faith Ireland Kirk Lakey, WDFW Terry Lee Sandy Lievero Homer Lockett Dorothy Lockett Susan Luthy Cheryl Merritt Bud Mount Fred Reinke Denise Reinke Kathi Skarbo John Uptegrove Doug Weber

(2) CONFIRM AGENDA

1. The agenda was confirmed

(3) REVIEW AND APPROVE MEETING #5 SUMMARY

1. The meeting summary was accepted as presented with the following clarification:
 - A clarification question was raised regarding whether project monitoring applied to public or private projects as referenced in Section 5, Shoreline Restoration Plan. The response was that it could apply to both project types.

(4) SHORELINE MASTER PROGRAM UPDATE, PROGRESS REPORT AND RECAP: David Johanson briefly summarized where we are in the SMP update process and referenced the latest version of the Shoreline Policy and Regulations Comparison Table. He went on to explain that the Department of Ecology still has to review the proposed Shoreline Master Program and this version is the 1st draft and he wants to get the committee's comments and issues incorporated before it moves forward to the Planning Commission and City Council for consideration and approval.

Karen Stewart gave an update of her work as a consultant with Reid Middleton and their coordination with the City and Department of Ecology. The goal is to work collaboratively with each agency to streamline the process.

David Johanson wrapped up the update and progress report stating that the committee would get through as much of the draft code as they can at this meeting, and if needed, discussion may continue at the next meeting scheduled for October 7, 2009. He wanted to ensure that the committee doesn't feel rushed.

- (5) **SHORELINE USES AND MODIFICATIONS, POLICIES AND REGULATIONS, CHAPTER IV:** Brian Bennett led the discussion of Chapter IV and stated comments could be taken and written down at the meeting, and staff would work on it and bring the incorporated comments back to the committee. Cyrilla asked that the committee go through the chapter from beginning to end, not jumping around through different sections.

1. **20.30.001 Figure 4 Shoreline Use/Modification Permit Matrix**

- Pat Haugen was concerned about boat ramps being prohibited and what would happen to existing boat ramps. The response was that existing boat ramps would fall under the nonconforming regulations in 20.35.045 as well as in the BMC and RCW (Revised Code of Washington). Karen Stewart brought attention to the footnotes to the chart and that boat ramps are permitted on community beaches with a conditional use permit.
- Lee Moyer asked about opening up a bulkhead to install a boat ramp that went no further waterward than the existing bulkhead. The response was that you would have to look at the shoreline designation directly adjacent to the bulkhead to determine if it is allowed. Bob Fritzen stated that a boat ramp is a boat ramp no matter if it's located landward or waterward of the ordinary high water mark. Boat ramps are prohibited based on the impact they have on the beach habitat and sediment transport. The committee was asked if they would like to further discuss this issue, but there were no further comments.
- Bob Fritzen would like language or a footnote added relating to 'Fill' in the use chart. He would like to add that fill should be allowed if associated with an otherwise allowed use.

2. **20.30.010 Impact Mitigation**

- Bruce Berglund asked for clarification regarding the wording 'to the fullest extent possible' in 20.30.010 [1.a]. He was directed to 2.a where 'to the greatest extent feasible' was used and that "feasible" was a defined term in the code.

There was a consensus that ‘to the fullest extent possible’ be removed from 1.a. since further detail is given in the regulations section 2.a.

- Don Warren feels that wetlands are missing from the impact mitigation section of the code. David Johanson stated that regulations regarding wetlands are located in the critical areas section of the BMC (Chapter 19.40). Bob Fritzen explained that the SMP will adopt the Critical Areas Ordinance into the SMP and provide some crossover regulations.
- Don Warren asked if compensatory measures as described in ‘f’ are able to be done off-site in another area or jurisdiction and would prefer that mitigation be done in the basin. It was pointed out that the language reads that the mitigation must be in the immediate vicinity or associated watershed.

3. 20.30.020 Archaeological and Historic Resources

- Don Warren asked what RCW 42.17.310 discussed – he will look up the language on his own

4. 20.30.025 Critical Areas

- Lee Moyer asked if aquifer recharge areas should be in the SMP or if they can they be covered only in BMC 19.40 Critical Areas. It was pointed out that there are regulations in the BMC.
- Cyrilla Cook asked for clarification on 2.c regarding the 10 foot buffer. There was confusion regarding what the buffer was for. Karen Stewart explained that it wasn’t actually a buffer associated with the shoreline setback, but is related only to in/over water development and the protection of saltwater habitat such as eelgrass. There was a consensus of the committee to change the language from ‘within a 10 foot buffer’ to ‘within 10 feet’.
- Based on a map from NOAA the entire shoreline is mapped as ‘nearshore critical habitat’ for Chinook Salmon, therefore it could be considered ‘critical saltwater habitat’ as stated in the draft SMP.
- The question was also asked if docks and ramps should be allowed in the critical saltwater habitat. The committee had no comments.

5. 20.30.030 Flood Hazard Reduction

- In 1.a, a question was raised regarding ‘should’ vs. ‘shall’ in the policy language. The committee asked that the policy should use shall vs. should because the word ‘feasible’ is included in the policy which already gives flexibility. There was consensus that “shall” should be used. There was also

consensus that “when feasible” should be removed from the policy language.

- David Johanson noted that there are flood hazard regulations that will also apply for development proposals if the site is mapped as a flood hazard area. These regulations are found in other areas of the BMC.
- Don Warren asked if there will be noticing requirements when all development occurs in a flood hazard zone. David Johanson responded that it depends on the project. If the project includes a review that requires noticing such as a Type 1, Shoreline Substantial Development permit or Shoreline Conditional Use permits, then yes.
- Don Warren commented that 1.f. should be taken out of the SMP.
 - f. The City should maintain the outlet weir at Lake Burien to maintain a relatively constant lake level to minimize the potential for flooding.
- Don Warren stated that the Lake Burien community has always maintained it and that they do not want the city to step in for maintenance. There has never been a flooding issue involving the lake. A comment was made from other members that since it is on Ruth Dykeman’s property, that they should weigh in on the decision and if they want the legal responsibility to maintain it. Don Warren mentioned that he has been told that the weir was installed by King County on or about 1958.
- Rebecca McInteer suggested that the Burien City Attorney review this and all of the residents of Lake Burien could possibly sign a hold harmless regarding maintenance of the weir, because a flooding issue could affect all property owners on the lake not just those present at this meeting.
- Don Warren would like the language to be removed for now, then, if the City decides they will maintain the weir, the language could be put back in at that point.
- Kirk Lakey, with WDFW suggested research should be done as to who actually holds the permit for the weir to hold water in the lake and if it was permitted. Research will be done to determine permit information. There was a consensus that the language should stay pending further research.

6. 20.30.035 Public Access

- Don Warren commented on 1.c. and asked if views could be blocked by construction project. David Johanson responded that there are no regulations regarding view protection in the BMC. The SMP language states that

views should be considered, but historically the City has made a decision not to regulate views.

- Don Warren asked if regulation 2.a intended that utility easements could be constructed to provide public access. Staff responded that this regulation talks about existing street ends, utilities, and rights-of-way, and that those cannot be vacated for public access. Policy 20.30.110 [1.d] addresses this issue.
- There was confusion regarding whether this regulation applies to public or private property. There was a consensus of committee that 2.b be revised to read:
“The vacation or sale of City street ends or other public rights-of-way and tax title properties that abut shoreline areas shall be prohibited as these areas provide shoreline public access and viewpoints”.
- There was a consensus of committee that 2.d be revised to read:
“If a public road is located within a shoreline jurisdiction, any unused right-of-way shall be dedicated to open space and public access”.
- Pat Haugen pointed out that it was not clear if public access requirement 2.e be applied to existing development such as community beaches. It was clarified that this applies to new development. There was consensus to add the term ‘new’ to regulation 2.e.
- Don Warren asked about restricting hours for public access points and if this applies to Lake Burien. He also asked if the code could specify hours of public access to beaches. Steve Roemer responded that this level of specification could not be added to the code because it may vary from access point to access point. He said the City would work with the homeowners on Lake Burien to determine appropriate hours on a project specific basis. It was noted that generally when there is a parks proposal they work with the surrounding property owners and residents to address design and operational issues.
- Don Warren asked that the threshold for providing public access in 2.e be increased to 5 lots. There was a consensus of the committee to keep the language as proposed.

7. 20.30.040 Shoreline Vegetation Conservation

- The committee asked if in policy 1.b if ‘degraded shoreline’ is defined. Staff responded that it was not, but degraded means whatever shoreline function has been disturbed or altered. The committee then suggested that ‘alteration’ be defined in the SMP because alteration leads to the

requirement of a vegetation management plan and bonding. David Johanson stated that alteration is a defined term in the zoning code and there will need to be more definitions added to the draft, specifically Chapter VI, Definitions.

- The committee asked if a degraded shoreline would be enforced, who decides what mitigation would be required, and what legal rights they have to determine that. Cyrilla Cook mentioned that degradation should only be associated with new development. She also suggested that policy[1.b] read as follows;

“Restoration and mitigation of ~~degraded~~ shorelines degraded due to natural or manmade causes should, wherever feasible, use bioengineering techniques to arrest the processes of erosion and sedimentation, to improve water quality and to provide for properly functioning conditions.”

There was *consensus* of the committee to change the language as proposed.

- The committee agreed that they would continue the review starting with Shoreline Vegetation Conservation at the next meeting.

(6) ADMINISTRATIVE PROCEDURES, CHAPTER V: Committee did not have time to discuss Chapter V at this meeting.

(7) NEXT STEPS AND NEXT MEETING:

1. Cyrilla Cook mentioned that it would be helpful to further the progress or SMP review that the committee read over the rest of the document and submit any comments or questions to staff prior to the next meeting. There was *consensus* that this was a good idea and that all comments shall be submitted to David Johanson by September 28th, 5pm. He will then compile the comments and provide them to the committee.
2. Another meeting for further discussion has been schedule for October 7, 2009, in the same location and at the same time.

The meeting concluded at 6:00pm.